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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/720,135	11/25/2003	Ryouichi Ochi	071671-0172	4421
22428 7590 12/31/2007 FOLEY AND LARDNER LLP SUITE 500 3000 K STREET NW WASHINGTON, DC 20007			EXAMINER RYMAN, DANIEL J	
			ART UNIT 2616	PAPER NUMBER
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

Application No.

10/720,135

Applicant(s)

OCHI ET AL.

Examiner

Daniel J. Ryman

Art Unit

2616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 19 October 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-39 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 November 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
  - 2) ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Response to Arguments*

1. Applicant's arguments with respect to claims 1-39 have been considered but are moot in view of the new ground(s) of rejection.

### *Drawings*

2. The drawings are objected to because ref. 21 in Figs. 2 and 3 should be labeled "Packet Division Unit" rather than "Racket Division Unit". Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### *Specification*

3. 35 U.S.C. 112, first paragraph, requires the specification to be written in "full, clear, concise, and exact terms." The specification is replete with terms which are not clear, concise

and exact. The specification should be revised carefully in order to comply with 35 U.S.C. 112, first paragraph. Examples of some unclear, inexact or verbose terms used in the specification are: p. 1, ll. 6-7, "present invention relates to voice data transmitting and receiving system" (Does this refer to a single or multiple systems?); p. 1, ll. 8-9, "system capable of securing meaning data" (What does it mean to "secure[e] meaning data"?); p. 1, ll. 9-11, "communication path such as QoS (quality of services) non-guaranteed network, for instance an internet" (What is a "QoS non-guaranteed network"? Does "an internet" refer to "the Internet"?); p. 1, ll. 12-17, "As internet which is in common use across borders and all over the world, electronic mercantile transactions and internet telephone, i.e. IP (internet protocol) telephone are attracting attentions aside from such conventional applications as home page reading, electronic mails and file transfer" (This is only a fragment, rather than a complete sentence. How is "in common use across borders" substantially different from "all over the world"? What is "home page reading"?); p. 1, ll. 18-19, "network centered on line exchange in telephone network" (What is this term referring to?); p. 1, ll. 19-20, "IP network based on packet exchanges" (Is there any IP network that is not based on packet exchanges, i.e. doesn't "IP network" implicitly include a network based on packet exchange?); p. 1, l. 21 "the IP telephone communication" (To which IP telephone communication does this refer?); p. 1, l. "IP base network" (Is this an IP based network?); and p. 1, l. 24-p. 2, l. 1 "What is called internet telephone is the utilization, in part of or full network service, of the same IP network, i.e., communication network for communication in internet protocol) as those utilized for such applications as IP telephone and www therein by voice telephone service utilizing IP network techniques" (This sentence seemingly says "What is called internet telephone is the use of the same IP network as that utilized for such applications

as IP telephone,” such that “IP telephone” is defined by referring to “IP telephone.” In addition, what is “utilization, in part of or full network service of the same IP network”? What is “www”? The phrase “in internet protocol)” has a closing parenthesis but no opening parenthesis.). Examiner notes that these are only the problems found on page 1 of the Specification; numerous other errors are found throughout the remaining text of the Specification. Examiner requests that Applicant edit both the disclosure and the abstract to clarify the language of the Specification. In doing so, Applicant is cautioned not to include new matter in the Specification.

#### *Claim Objections*

4. Claim 1 is objected to because of the following informalities: in line 5, “clause units” should be “divided clause units”. Appropriate correction is required.
5. Claim 15 is objected to because of the following informalities: in line 4, “clause units” should be “divided clause units”. Appropriate correction is required.
6. Claim 30 is objected to because of the following informalities: in line 2, “voice” should be “voice data”. Appropriate correction is required.
7. Claim 31 is objected to because of the following informalities: in line 2, “voice” should be “voice data”. Appropriate correction is required.

#### *Claim Rejections - 35 USC § 112*

8. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.
9. Claims 1-39 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for a transmitting and receiving system for transmitting and receiving

packet data containing divided clause units, does not reasonably provide enablement for all transmitting and receiving systems. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention commensurate in scope with these claims.

10. Claim 1 recites: “A voice data transmitting and receiving system for transmitting and receiving voice data as packet data via a network, wherein: [the transmission side performs various functions] and [the reception side performs various functions].” Here, the phrase “for transmitting and receiving voice data as packet data via a network” is an intended use limitation since it fails to provide for a structural limitation of the claim. *See* MPEP §§ 2111.02(II), 2114. An intended use limitation does not differentiate the claim from the prior art. *Id.* In addition, “wherein” clauses constitute claim language that raises questions as to whether the language “suggests or makes optional but does not require steps to be performed” or whether the language “does not limit a claim to a particular structure.” MPEP § 2111.04. In this case, the wherein clause does not limit the claim to a particular structure since the wherein clause merely recites the functions to be performed by the transmission side and the reception side. These functions are not limited to a particular structure, but rather only set forth what the system should do when operating. “While features of an apparatus may be recited either structurally or functionally, claims directed to an apparatus must be distinguished from the prior art in terms of structure rather than function.” MPEP § 2114 (citing to *In re Schreiber*, 128 F.3d 1473, 1477-78, 44 USPQ2d 1429, 1431-32 (Fed. Cir. 1997)). In view of the foregoing, Applicant has only claimed a transmitting and receiving system containing a transmission side and a reception side. This claim is broad enough to cover all transmitting and receiving systems, whereas Applicant has

only invented a particular transmitting and receiving system. As such, the specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the claimed invention commensurate in scope with these claims.

11. Claim 2 recites: “A voice data transmitting and receiving system, wherein: [the transmission side performs various functions] and [the reception side performs various functions].” “Wherein” clauses constitute claim language that raises questions as to whether the language “suggests or makes optional but does not require steps to be performed” or whether the language “does not limit a claim to a particular structure.” MPEP § 2111.04. In this case, the wherein clause does not limit the claim to a particular structure since the wherein clause merely recites the functions to be performed by the transmission side and the reception side. These functions are not limited to a particular structure, but rather only set forth what the system should do when operating. “While features of an apparatus may be recited either structurally or functionally, claims directed to an apparatus must be distinguished from the prior art in terms of structure rather than function.” MPEP § 2114 (citing to *In re Schreiber*, 128 F.3d 1473, 1477-78, 44 USPQ2d 1429, 1431-32 (Fed. Cir. 1997)). In view of the foregoing, Applicant has only claimed a transmitting and receiving system containing a transmission side and a reception side. This claim is broad enough to cover all transmitting and receiving systems, whereas Applicant has only invented a particular transmitting and receiving system. As such, the specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the claimed invention commensurate in scope with these claims.

12. Claim 3 recites: “A voice data transmitting and receiving system, wherein: [the transmission side performs various functions] and [the reception side performs various

functions].” “Wherein” clauses constitute claim language that raises questions as to whether the language “suggests or makes optional but does not require steps to be performed” or whether the language “does not limit a claim to a particular structure.” MPEP § 2111.04. In this case, the wherein clause does not limit the claim to a particular structure since the wherein clause merely recites the functions to be performed by the transmission side and the reception side. These functions are not limited to a particular structure, but rather only set forth what the system should do when operating. “While features of an apparatus may be recited either structurally or functionally, claims directed to an apparatus must be distinguished from the prior art in terms of structure rather than function.” MPEP § 2114 (citing to *In re Schreiber*, 128 F.3d 1473, 1477-78, 44 USPQ2d 1429, 1431-32 (Fed. Cir. 1997)). In view of the foregoing, Applicant has only claimed a transmitting and receiving system containing a transmission side and a reception side. This claim is broad enough to cover all transmitting and receiving systems, whereas Applicant has only invented a particular transmitting and receiving system. As such, the specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the claimed invention commensurate in scope with these claims.

13. Claim 15 recites: “A voice data transmitting and receiving method as packet data via a network, wherein: [various functions are suggested].” “Wherein” clauses constitute claim language that raises questions as to whether the language “suggests or makes optional but does not require steps to be performed” or whether the language “does not limit a claim to a particular structure.” MPEP § 2111.04. In this case, since the claim never positively recites any process steps, it is presumed that the wherein clause makes optional but does not require the steps to be performed. Simply, a positive recitation of the process steps would have clearly required the



steps to be performed, such that by placing these steps after a wherein clause it is presumed the Applicant did not intend to clearly require the steps to be performed. In view of the foregoing, Applicant has only claimed a voice data transmitting and receiving method. The claim is broad enough to cover all voice data transmitting and receiving methods, whereas Applicant has only invented a particular voice data transmitting and receiving method. As such, the specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the claimed invention commensurate in scope with these claims.

14. Claim 16 recites: "A voice data transmitting and receiving method, wherein: [various functions are suggested]." "Wherein" clauses constitute claim language that raises questions as to whether the language "suggests or makes optional but does not require steps to be performed" or whether the language "does not limit a claim to a particular structure." MPEP § 2111.04. In this case, since the claim never positively recites any process steps, it is presumed that the wherein clause makes optional but does not require the steps to be performed. Simply, a positive recitation of the process steps would have clearly required the steps to be performed, such that by placing these steps after a wherein clause it is presumed the Applicant did not intend to clearly require the steps to be performed. In view of the foregoing, Applicant has only claimed a voice data transmitting and receiving method. The claim is broad enough to cover all voice data transmitting and receiving methods, whereas Applicant has only invented a particular voice data transmitting and receiving method. As such, the specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the claimed invention commensurate in scope with these claims.

15. Claim 17 recites: “A voice data transmitting and receiving method, wherein: [various functions are suggested].” “Wherein” clauses constitute claim language that raises questions as to whether the language “suggests or makes optional but does not require steps to be performed” or whether the language “does not limit a claim to a particular structure.” MPEP § 2111.04. In this case, since the claim never positively recites any process steps, it is presumed that the wherein clause makes optional but does not require the steps to be performed. Simply, a positive recitation of the process steps would have clearly required the steps to be performed, such that by placing these steps after a wherein clause it is presumed the Applicant did not intend to clearly require the steps to be performed. In view of the foregoing, Applicant has only claimed a voice data transmitting and receiving method. The claim is broad enough to cover all voice data transmitting and receiving methods, whereas Applicant has only invented a particular voice data transmitting and receiving method. As such, the specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the claimed invention commensurate in scope with these claims.

16. Examiner notes that claims traditionally are structured in the following manner: preamble, transitional phrase, and body of the claim. For example, in the traditional manner, claim 15 would be rewritten as follows: “A method for transmitting and receiving voice data as packet data via a network, the method comprising the steps of: in a transmission side: dividing voice clauses; transmitting the divided clause units as packet data in divided clause units; and in a reception side: outputting the voice data based on the received packet data in clause units.” Examiner stresses that Applicant should rewrite the claims in the aforementioned format because

this will positively recite either the structure or steps of the claim, thereby avoiding claiming subject matter that is not commensurate in scope with the claims.

17. Claims 4-7, 14, 20, 21, 24, 25, 38, and 39 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

18. Claim 4 recites: "wherein the packet data sent out from the transmission side is in the form of a file." Claim 1 recites: "transmitting and receiving voice data as packet data via a network." Thus, claim 4, in conjunction with claim 1, requires sending packet data in the form of files over a network that communicates packet data. The Specification never discusses forming packet data as files to be transmitted over a network that communicates packet data. As such, the claims contain subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

19. Claims 5, 20, and 21 recite: "wherein on the transmission side either a re-transfer request is provided by recognizing missing of received packet data or an interpolation process on the received data is executed based on the received file data." This requires the transmission side to provide some sort of error correction on received data, where the transmission side never receives data (the reception side receives received data). As such, the claims contain subject matter which was not described in the specification in such a way as to enable one skilled in the

art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

20. Claims 7, 24, and 25 recite: “wherein in the reception side, the file data sent out from the transmission side is taken out from the received data based on the discrimination data.”

Allowing for various errors in the transmission process, Examiner assumes that the set of file data sent out from the transmission side is the same as the set of received data, i.e. no data is added to the transmitted data after it has been transmitted. Therefore, it is impossible to take out the file data sent out from the transmission side from the received data because these two sets of data are the same, i.e. “take out” implies that only a subset of the data is removed from a larger set. As such, the claims contain subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

21. Claims 14, 38, and 39 recite: “A voice data transmitting and receiving system . . . wherein the system is selected based on the extent of communication per unit time between the transmission and reception sides.” This requires that the system select itself because the claims are all directed to the operation of a system. The Specification fails to provide how the system selects itself or what are the options from which the system is able to choose from before selecting itself. As such, the claims contain subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

22. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

23. Claims 1-39 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

24. Claim 1 recites: "voice clauses are divided and transmitted as packet data in divided clause units." It is unclear how packets are transmitted "in divided clause units." Does this mean that each packet contains a divided voice clause in its payload? Does this mean that a group of packets comprising a "divided clause unit" are sent as bursts in the communication system? Applicant is required to clarify the relationship between the divided voice clauses and the "packet data in divided clause units."

25. Claim 2 recites: "Real Time Packets (RTPs) in the clause units." It is unclear how RTPs are transferred "in clause units." Does this mean that each packet contains a voice clause in its payload? Does this mean that a group of packets comprising a "clause unit" are sent as bursts in the communication system? Applicant is required to clarify the relationship between the voice clauses and the RTPs "in clause units."

26. Claim 2 recites: "real-time communication packets" (line 4) and "Real Time Packets (RTPs)" (line 6). It is unclear whether these two limitations are synonymous or distinct. If these phrases are synonymous, then Applicant should amend the claim to use the same phrase in both instances. If these phrases are distinct, Applicant should amend one of the phrases to clarify the distinction.

27. Claim 2 recites: "Real Time Packets (RTPs) in clause units" (line 6) and "packet data in clause units" (line 9). It is unclear whether these two limitations are synonymous or distinct. If

these phrases are synonymous, then Applicant should amend the claim to use the same phrase in both instances. If these phrases are distinct, Applicant should amend one of the phrases to clarify the distinction. For example, Applicant could amend “packet data in clause units” to be “received RTPs in clause units”.

28. Claim 3 recites: “Real Time Packets (RTPs) in the clause units.” It is unclear how RTPs are transferred “in clause units.” Does this mean that each packet contains a voice clause in its payload? Does this mean that a group of packets comprising a “clause unit” are sent as bursts in the communication system? Applicant is required to clarify the relationship between the voice clauses and the RTPs “in clause units.”

29. Claim 3 recites: “real-time communication packets” (line 4) and “Real Time Packets (RTPs)” (line 6). It is unclear whether these two limitations are synonymous or distinct. If these phrases are synonymous, then Applicant should amend the claim to use the same phrase in both instances. If these phrases are distinct, Applicant should amend one of the phrases to clarify the distinction.

30. Claim 3 recites: “the clause units are combined into a single packet data”. The word “data” is the plural of the word “datum”. As such, it is unclear how there can be a single data.

31. Claim 3 recites: “Real Time Packets (RTPs) in clause units” (line 6) and “packet data in clause units” (line 9). It is unclear whether these two limitations are synonymous or distinct. If these phrases are synonymous, then Applicant should amend the claim to use the same phrase in both instances. If these phrases are distinct, Applicant should amend one of the phrases to clarify the distinction. For example, Applicant could amend “packet data in clause units” to be “received RTPs in clause units”.

32. Claim 15 recites: “voice clauses are divided and transmitted as packet data in divided clause units.” It is unclear how packets are transmitted “in divided clause units.” Does this mean that each packet contains a divided voice clause in its payload? Does this mean that a group of packets comprising a “divided clause unit” are sent as bursts in the communication system? Applicant is required to clarify the relationship between the divided voice clauses and the “packet data in divided clause units.”

33. Claim 16 recites: “Real Time Packets (RTPs) in the clause units.” It is unclear how RTPs are transferred “in clause units.” Does this mean that each packet contains a voice clause in its payload? Does this mean that a group of packets comprising a “clause unit” are sent as bursts in the communication system? Applicant is required to clarify the relationship between the voice clauses and the RTPs “in clause units.”

34. Claim 16 recites: “real-time communication packets” (line 3) and “Real Time Packets (RTPs)” (lines 4-5). It is unclear whether these two limitations are synonymous or distinct. If these phrases are synonymous, then Applicant should amend the claim to use the same phrase in both instances. If these phrases are distinct, Applicant should amend one of the phrases to clarify the distinction.

35. Claim 16 recites: “Real Time Packets (RTPs) in clause units” (lines 4-5) and “packet data in clause units” (line 7). It is unclear whether these two limitations are synonymous or distinct. If these phrases are synonymous, then Applicant should amend the claim to use the same phrase in both instances. If these phrases are distinct, Applicant should amend one of the phrases to clarify the distinction. For example, Applicant could amend “packet data in clause units” to be “received RTPs in clause units”.

36. Claim 17 recites: “Real Time Packets (RTPs) in the clause units.” It is unclear how RTPs are transferred “in clause units.” Does this mean that each packet contains a voice clause in its payload? Does this mean that a group of packets comprising a “clause unit” are sent as bursts in the communication system? Applicant is required to clarify the relationship between the voice clauses and the RTPs “in clause units.”

37. Claim 17 recites: “real-time communication packets” (line 3) and “Real Time Packets (RTPs)” (lines 4-5). It is unclear whether these two limitations are synonymous or distinct. If these phrases are synonymous, then Applicant should amend the claim to use the same phrase in both instances. If these phrases are distinct, Applicant should amend one of the phrases to clarify the distinction.

38. Claim 17 recites: “the clause units are combined into a single packet data”. The word “data” is the plural of the word “datum”. As such, it is unclear how there can be a single data.

39. Claim 17 recites: “Real Time Packets (RTPs) in clause units” (lines 4-5) and “packet data in clause units” (line 7). It is unclear whether these two limitations are synonymous or distinct. If these phrases are synonymous, then Applicant should amend the claim to use the same phrase in both instances. If these phrases are distinct, Applicant should amend one of the phrases to clarify the distinction. For example, Applicant could amend “packet data in clause units” to be “received RTPs in clause units”.

40. Claims 18 and 19 recite the limitation “data” in line 2. There is insufficient antecedent basis for this limitation in the claim. It is unclear whether “data” refers to “voice data” or “packet data”. Examiner notes that if claims 18 and 19 are amended in conformance with



currently amended claim 4, then these claims will also be subject to rejection under 35 U.S.C. § 112, first paragraph, as failing the enablement requirement.

41. Claims 22 and 23 recite the limitation "file data" in line 2. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

42. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

43. Claims 1-39 are rejected under 35 U.S.C. 102(b) as being anticipated by Kudo et al. (USPN 5,148,429), of record.

44. Regarding claims 1-14 and 18-39, incorporating the analysis of the claims from the rejections pertaining to 35 U.S.C. § 112, first paragraph, Kudo discloses a transmitting and receiving system containing a transmission side and a reception side (col. 3, l. 61-col. 4, l. 36).

45. Regarding claims 15-17 incorporating the analysis of the claims from the rejections pertaining to 35 U.S.C. § 112, first paragraph, Kudo discloses a voice data transmitting and receiving method (col. 3, l. 61-col. 4, l. 36).

***Conclusion***

46. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Wang (USPN 7,069,208); Huart et al. (USPN 7,013,267); Lindemann (USPN 6,754,265); Gibson et al. (USPN 6,445,717); Shepard (USPN 5,943,347); Jagadeesan (USPN 6,836,804); and Minko (USPN 5,963,551).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel J. Ryman whose telephone number is (571)272-3152. The examiner can normally be reached on Mon.-Fri. 8:00am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huy Vu can be reached on (571)272-3155. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Daniel J. Ryman  
Examiner  
Art Unit 2616

*Daniel Ryman*